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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/633,272 | 07/31/2003 | Byron Van Slovis | 033905-000017 | 3374 |

7590

12/02/2005

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| EXAMINER |
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HYLTON, ROBIN ANNETTE

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| ART UNIT | PAPER NUMBER |
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3727

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,272

Applicant(s)

SLOVIS, BYRON VAN

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 6-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 16, 2005 has been entered.

Claim Objections

2. Claims 2,15,20, and 25 are objected to because of the following informalities: in the phrase "to from", the term "form" is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. Claims 24-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the claims are rejected for the following reasons:

Wherein the back panel is formed of a single sheet of material, it is unclear how the bottom section is capable of expanding more than the top section since no structure has been provided in the claim to allow for the difference in expansion of the back panel sections.

Dependent claims not specifically mentioned are rejected as depending from rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3727

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1,3, and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Avery et al (US 6,823,867). A pleated pocket device **20** has a back panel **27** having at least one pleat **25** formed near a centerline of the back panel, a first section located above the apex of the pleat and a second section located below the apex of the pleat, the second section *capable* of expanding more than the first section and also in width and depth, and a front panel **26** connected to the back panel along the side edges to form a cavity adjacent the second section. It is noted claim 1 does not indicate the cavity is closed.

7. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al. (US 3,934,631). A pleated pocket device **10** has a back panel **27** formed from a single sheet of material having at least one pleat **36** formed near a centerline of the back panel, a first section located at the top of the device near the attachment to the hangar and a second section located near the middle of the back panel, the second section *capable* of expanding more than the first section and also in width and depth, and a front panel **26** connected to the back panel along the side edges to form a cavity adjacent the second section. It is noted claim 1 does not indicate the cavity is closed.

8. Claims 1-5,14-16,18-21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Capy et al. (US 5,743,460). A pleated pocket device having a back panel **4** formed from a single sheet of material has at least one pleat **1** formed near a centerline of the back panel, a first section located at a side edge of the device and a second section located near the middle of the back panel, the second section *capable* of expanding more than the first section and in also width and depth, a front panel **3** connected to the back panel along the side

Art Unit: 3727

edges to form a cavity adjacent the second section, and a third second 5 adjacent the second section and forming a cavity bottom. The pleats can be seen in the figures to be formed near the centerline of the back panel.

9. Claims 1-5, 14-16, 18-21, and 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Sica (US 4,079,871). A pleated pocket device **10** having a back panel **20** formed from a single sheet of material has at least one pleat **24** formed near a centerline of the back panel, a first section located at the top of the device and a second section located below the top of the back panel, the second section *capable* of expanding more than the first section and also in width and depth, a front panel **20'** connected to the back panel along the side edges to form a cavity adjacent the second section, and a third second at the bottom of the pouch adjacent the second section and forming a cavity bottom. The centermost pleats can be seen in the figure 3 to be formed next the centerline of the back panel.

Claim Rejections - 35 USC § 103

10. Claims 17 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capy.

Capy teaches a pleated pocket device as previously set forth wherein the first pleat and second pleat form a trapezoidal shape. Thus, Capy teaches the claimed pleated pocket device except for an inverted "V" shape formed by the first pleat and the second pleat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to relocate the upper ends of the pleats closer together. Doing so is an obvious matter of design choice to form pleats of a different configuration, yet serving the same structural function and having the same basic structural feature.

Response to Arguments

11. Applicant's arguments with respect to claims 1-5 and 14-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature_____

Date_____

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

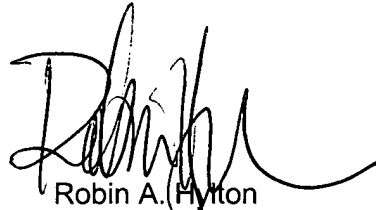
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Art Unit: 3727

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH
November 29, 2005



Robin A. Hyton
Primary Examiner
GAU 3727